

**INSTRUCTION**Copyrighted Materials: Nonprint Media**A. Records, Discs and Audio Tape Recordings**

1. A single copy of a portion of a sound record may be made by or for a student (i.e., song from a record, but not the entire recording). The copy can only be used in the educational context in which it was made and may not be sold or performed for profit.
2. A single copy of recordings of performances by students may be made for evaluation or rehearsal purposes and may be retained by the educational institution or individual teacher.
3. A single copy of the entire sound recording of copyrighted music or a portion thereof may be made from sound recordings owned by an educational institution or an individual teacher for the purposes of constructing aural exercises or examinations and may be retained by the educational institution or individual teacher.

**B. Films/Filmstrips/Slide Programs**

1. A single copy of a portion of a copyrighted film or filmstrip may be made by a student for educational purposes if the material is owned by the school which the student is attending.
2. A single copy of a small portion of a film or filmstrip may be made by or for a teacher for scholarly or teaching purposes.
3. No one is permitted to copy any portion of a film or filmstrip sent to the school for preview or rent or owned by another school or institution without the express written permission of the copyright holder. The copyright of a film governs the performance (showing) as well as the copying of it. It is permissible to show a film to students using closed-circuit television if the system is confined to one building. Showing a film via closed-circuit outside the building is not permitted.

**C. Radio (off-air taping)**

1. A single copy of a small portion of a copyrighted radio program may be made by a student for educational purposes. Such a copy may not be sold or performed for profit.
2. Copies of broadcasts by National Public Radio may be made by schools and retained for an indefinite period for educational purposes.

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3. Copying of broadcasts on commercial radio, except for copyrighted musical selections (see above Section A, Records, discs, and audio tape recordings), is governed by the same copyright laws that apply to off-air taping of commercial television; however, there is no special provision allowing libraries to tape radio news programs (See Section D following).

**D. Television (off-air taping)**

1. A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable retransmission) and retained by a non-profit educational institution for a period not to exceed the first forty-five (45) consecutive calendar days after the date of recording. Upon conclusion of such retention period, all off-air recordings must be erased or destroyed immediately. Broadcast programs are television programs transmitted for reception by the general public without charge.
2. Off-air recordings may be used once by individual teachers in the course of relevant teaching activities and repeated once only when instructional reinforcement is necessary. These recordings may be shown in classrooms and similar places devoted to instruction within a single building, cluster, or campus, as well as in the homes of students formalized home instruction, during the first ten (10) consecutive school days in the forty-five (45) calendar day retention period. School days are school session days, not counting weekends, holidays, vacations, examination periods, or other scheduled interruptions, within the forty-five (45) calendar day retention period.
3. Off-air recordings may be made only at the request of and used by individual teachers, and may not be regularly recorded in advance of requests. No broadcast program may be recorded off-air more than once at the request of the same teacher, regardless of the number of times the program may be broadcast.
4. A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under these guidelines. Each such additional copy shall be subject to all provisions governing the original recording.
5. After the first ten (10) consecutive school days, off-air recordings may be used up to the end of the forty-five

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- (45) calendar day retention period only for teacher evaluation purposes (i.e., to determine whether or not to include the broadcast program in the teaching curriculum) and may not be used in the recording institution for student exhibition or any other non-evaluation purposes without authorization.
6. Off-air recordings need not be used in their entirety, but the recorded programs may not be altered from their original content. Off-air recordings may not be physically or electronically combined or merged to constitute teaching anthologies or compilations.
  7. For off-air taping of Virginia Instructional Television programs inquiry should be made of the Division of Instructional Media and Technology, State Department of Education, P. O. Box 6Q, Richmond, Virginia 23216.
  8. The copying or use of video tapes made from subscription programs transmitted via subscription television cable services such as HBO or Show Time is illegal. Such programs are licensed for private/home use only and may not be used in public schools.

**E. 'FOR HOME USE ONLY' Video Tapes**

Video tapes often carry the warning "For Home Use Only" which raises the question of whether the video tapes may be used in the classroom. If the video tape has been cleared for public performance, there is no problem using it in the classroom or on a bus during field trips.

**1. Face to Face Exemption**

- a. If a film has not been cleared for public performance, a teacher may use a "For Home Use Only" tape if all of the following seven conditions are satisfied:

- 1) The performance be given by an instructor, thus ruling out presentation by a guest lecturer.
- 2) The material being performed must be a face-to-face teaching activity. This means that the material being performed and the teacher and students must be together. Use of a closed circuit television within one building is acceptable.
- 3) The use of the material must be limited to teaching activities which rules out use for

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recreational purposes, entertainment or rewards  
to members of the class.

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- 4) The performance must take place at a non-profit educational institution.
- 5) The performance must take place in the classroom or similar place devoted to instruction. A classroom is defined as the area where instruction is taking place.
- 6) The performance must be given by means of a lawfully made copy.
- 7) In the case of rental video tapes, care must be taken to ensure that the renter of the tape has not signed an agreement with the home video outlet indicating that the tape will be used for home viewing only. In such cases, contractual obligations supersede any rights under the copyright law.

**F. Copyright Infringements**

The copyright law specifies a penalty from \$250 to \$10,000 in statutory damages for each violation, but the penalty can be as much as \$50,000 for willful violation. Even if a defendant is judged not to be in violation of the law, court costs and attorney's fees must still be borne by the individual and/or organization charged with the copyright infringement.

Editor's Note

See also guidelines for using/acquiring films other than "G" in Library Media Resource Centers: Selection of Materials in Regulation #R6-51.1 and board Policy #6-49.

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